

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 126

BOARD OF CHIROPRACTORS

Sub-Chapter 1

Organizational Rule

Rule 24.126.101 Board Organization

Sub-Chapter 2

Procedural Rules

Rule 24.126.201 Procedural Rules

24.126.202 Public Participation Rules

Sub-Chapter 3

Definitions

Rule 24.126.301 Definitions

Sub-Chapter 4

General Provisions

Rule 24.126.401 Fee Schedule

Rule 24.126.402 reserved

24.126.403 Purpose Of The Board (REPEALED)

Rule 24.126.404 reserved

24.126.405 Board Meetings

24.126.406 Record Of Minutes And Hearings

Rules 24.126.407 through 24.126.410
reserved

24.126.411 Patient Records Retention

Sub-Chapter 5

Licensing And Scope Of Practice

Rule 24.126.501 Applications

Rules 24.126.502 and 24.126.503 reserved

24.126.504 Examination Requirements
Rules 24.126.505 and 24.126.506 reserved

24.126.507 Temporary Permit
Rules 24.126.508 and 24.126.509 reserved

24.126.510 Endorsement

24.126.511 Display Of License
Sub-Chapter 6 reserved

Sub-Chapter 7

Licensing And Board Specific Rules

Rule 24.126.701 Inactive Status
Rules 24.126.702 and 24.126.703 reserved

24.126.704 Interns And Preceptors
Sub-Chapter 8 reserved

Sub-Chapter 9

Impairment Evaluators

Rule 24.126.901 Applications For Certification Of
Impairment Evaluators
Rules 24.126.902 and 24.126.903 reserved

Rule 24.126.904 Minimum Requirements For Board-Approved
Programs To Qualify For Certification As
Evaluators
Rules 24.126.905 and 24.126.906 reserved

24.126.907 Approval Of Training Programs
Rules 24.126.908 and 24.126.909 reserved

24.126.910 Recertification - Denial - Revocation

Sub-Chapters 10 through 20 reserved

Sub-Chapter 21

Renewals And Continuing Education

Rule 24.126.2101 Renewals - Continuing Education Requirements

Sub-Chapter 22 reserved

Sub-Chapter 23

Unprofessional Conduct

Rule 24.126.2301 Unprofessional Conduct

Sub-Chapter 1

Organizational Rule

24.126.101 BOARD ORGANIZATION (1) The board of chiropractors hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-12-201, MCA; IMP, 2-4-201, MCA, Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

Sub-Chapter 2

Procedural Rules

24.126.201 PROCEDURAL RULES (1) The board of chiropractors hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-12-201, MCA; IMP, 2-4-201, MCA, Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

24.126.202 PUBLIC PARTICIPATION RULES (1) The board of chiropractors hereby adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of this title. (History: 37-12-201, MCA; IMP, 2-3-103, MCA; NEW, 1980 MAR p. 3129, Eff. 12/27/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

Sub-Chapter 3

Definitions

24.126.301 DEFINITIONS (1) "Chaperone" as used in 37-12-607, MCA, means an individual delegated to ensure proper behavior on the part of the provider and the patient during the course of a physical examination or treatment.

(2) "Diagnostic x-ray" as used in 37-12-104, MCA, shall mean any recognized form of diagnostic imaging including, but not limited to, x-ray, cat scan and MRI.

(3) "Dietetic methods" as used in 37-12-104, MCA, shall mean any service, when performed, or ordered to be performed, by any licensed chiropractor, for therapeutic effects, which may employ recommending, and/or giving of any food, vitamin, mineral, herb, enzyme, glandular product, homeopathic preparation, diet plan or other nutritional substance not requiring a medical prescription.

(4) "Physiotherapy" as used in 37-12-104, MCA, shall mean any service, when performed, or ordered to be performed, by any licensee, employing for therapeutic effects, physiological measures, activities and devices for preventive and therapeutic purposes, physiological agents including, but not limited to, mechanical devices, heat, air, light, water, electricity, sound, exercise, rehabilitative procedures, massage and mobilization, when performed for the purpose of diagnosis, evaluation, treatment and instruction of the human body to detect, assess, correct, alleviate, prevent, and limit physical disability, injury, body malfunction, pain, mental condition by the aforementioned agents or any other procedure taught in chiropractic colleges for the purpose of preventing, correcting or alleviating a physiological or mental disability or condition. (History: 37-1-131, 37-1-319, 37-12-201, MCA; IMP, 37-12-104, 37-12-201, MCA; NEW, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1992 MAR p. 2131, Eff. 9/25/92; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2004 MAR p. 729, Eff. 4/9/04.)

Sub-Chapter 4

General Provisions

24.126.401 FEE SCHEDULE

(1) Application fee	\$125
(2) Re-examination fee per section (written/practical)	50
(3) Renewal fee	
(a) Active license	150
(b) Inactive license	50
(4) Late renewal fee	50
(5) Original license fee	75
(6) Temporary permit	25
(7) Application for impairment evaluators	100
(8) Certificate for impairment evaluators	50
(9) Renewal of certificate for impairment evaluators	50
(10) Application fee for student/interns	25
(11) Application fee for practitioners proposing to serve as preceptors	25

(12) All fees are non-refundable. (History: 37-1-134, 37-12-201, MCA; IMP, 37-1-134, 37-12-201, 37-12-302, 37-12-304, 37-12-307, MCA; NEW, 1990 MAR p. 1251, Eff. 6/15/90; AMD, 1990 MAR p. 1453, Eff. 7/27/90; AMD, 1994 MAR p. 2713, Eff. 10/14/94; AMD, 1996 MAR p. 2844, Eff. 10/25/96; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2004 MAR p. 729, Eff. 4/9/04.)

Rule 24.126.402 reserved

24.126.403 PURPOSE OF THE BOARD (IS HEREBY REPEALED)
(History: 37-12-201, MCA; IMP, 37-12-104, MCA, Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761; REP, 2004 MAR p. 729, Eff. 4/9/04.)

Rule 24.126.404 reserved

24.126.405 BOARD MEETINGS (1) The secretary shall notify the board members in writing of all statutory meetings.

(2) Roberts Rules of Order shall govern the deliberations of the board insofar as they do not conflict with other rules that the board may adopt or with the laws of the state of Montana. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

24.126.406 RECORD OF MINUTES AND HEARINGS (1) The full proceedings of the board, including the regular and special meetings, shall be typewritten and a copy supplied to each member of the board by the department. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.407 through 24.126.410 reserved

24.126.411 PATIENT RECORDS RETENTION (1) Chiropractors are required to retain adult patient records and x-rays for a minimum of five years and a minor patient's records and x-rays for a minimum of five years from their last treatment or at least one year past their 18th birthday. Medicaid requires that minor patient records be kept until the patient's 23rd birthday. (History: 37-1-131, 37-12-201, MCA; IMP, 37-1-201, MCA; NEW, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761.)

Sub-Chapter 5

Licensing And Scope Of Practice

24.126.501 APPLICATIONS (1) Pursuant to the requirements of 37-12-302, MCA, an application for original license, renewal, examination, temporary permit or reactivation must be made on a form provided by the board and completed and signed by the applicant, with the signature acknowledged before a notary public.

(2) The application must be typed or legibly hand-written in ink, accompanied by the appropriate fee(s) and contain sufficient evidence that the applicant possesses the qualifications set forth in Title 37, chapter 12, MCA, and rules

promulgated thereunder.

(3) The board shall require the applicant to submit a recent, passport-type photograph of the applicant.

(4) The board shall review fully-completed applications for compliance with board law and rules. The board may request additional information or clarification of information provided in the application as it deems reasonably necessary. Incomplete applications that are received and cannot be resolved in a timely or convenient manner shall be returned to the applicant with a statement regarding incomplete portions.

(5) Failure to resubmit a complete application within one year will indicate voluntary withdrawal of the application.

(6) The board shall notify the applicant in writing of the results of its evaluation of the application.

(7) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12101, et seq., must be made on forms provided by the board and submitted within a reasonable time prior to the date on which the reasonable accommodation is requested.

(8) The following must accompany an application:

(a) official transcripts sent directly from the appropriate educational institution, including the applicant's CCE-accredited chiropractic college;

(b) a certified copy of examination results sent directly from the national board of chiropractic examiners (NBCE), parts I and II, including physiotherapy, part III and part IV; and

(c) verification of licensure sent directly from any state in which the applicant is currently licensed. (History: 37-1-131, 37-12-201, MCA; IMP, 37-1-131, 37-12-302, 37-12-304, 37-12-305, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 442, Eff. 5/11/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 6, Eff. 1/15/82; AMD, 1982 MAR p. 1540, Eff. 8/13/82; AMD, 1984 MAR p. 499, Eff. 3/30/84; AMD, 1986 MAR p. 201, Eff. 2/14/86; AMD, 1986 MAR p. 1182, Eff. 7/18/86; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1990 MAR p. 1144, Eff. 6/15/90; AMD, 1992 MAR p. 2131, Eff. 9/25/92; AMD, 1994 MAR p. 1578, Eff. 6/10/94; AMD, 1994 MAR p. 2713, Eff. 10/14/94; AMD, 1996 MAR p. 2844, Eff. 10/25/96; AMD, 1998 MAR p. 1494, Eff. 6/12/98; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.502 and 24.126.503 reserved

24.126.504 EXAMINATION REQUIREMENTS (1) The board accepts as its approved method of examination, parts I and II, including physiotherapy, part III and part IV of the national board of chiropractic examiners (NBCE) examination. In addition, the applicant must pass the state jurisprudence examination. (History: 37-1-131, 37-12-201, MCA; IMP, 37-12-304, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 442, Eff. 5/11/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1540, Eff. 8/13/82; AMD, 1983 MAR p. 1247, Eff. 9/16/83; AMD, 1988 MAR p. 44, Eff. 1/15/88; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1992 MAR p. 2131, Eff. 9/25/92; AMD, 1996 MAR p. 2844, Eff. 10/25/96; AMD, 1998 MAR p. 1494,

Eff. 6/12/98; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.505 and 24.126.506 reserved

24.126.507 TEMPORARY PERMIT (1) Temporary permit applicants may be issued a permit under 37-1-305(2), MCA, while waiting to take either part IV of the NBCE or the special purposes examination for chiropractors (SPEC). The permit shall require the permit holder to practice under the on-premises supervision of a chiropractor licensed in the state of Montana.

(2) A temporary permit applicant must take and pass the jurisprudence exam by a minimum of 75% before a temporary permit will be granted.

(3) A temporary permit holder may not sign insurance claims, workers' compensation claims, medicare/medicaid claims or birth or death certificates. Only licensed practitioners have this authority.

(4) A notarized statement consenting to the above conditions shall be signed by both the supervising licensed chiropractor and the applicant, and filed with the board.

(5) Any advertisement where the temporary permit holder is named or pictured must designate him/her as a pre-graduate or post-graduate intern. This designation must appear with the name of the supervising licensed chiropractor. (History: 37-1-319, 37-12-201, MCA; IMP, 37-12-305, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1540, Eff. 8/13/82; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1996 MAR p. 2844, Eff. 10/25/96; AMD, 1998 MAR p. 1494, Eff. 6/12/98; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.508 and 24.126.509 reserved

24.126.510 ENDORSEMENT (1) In order to receive a license by endorsement, license applicants shall provide proof of equal credentials from the current licensing state. In instances where applicant cannot demonstrate equal credentials, the applicant may obtain a license upon successful passage of the SPEC examination administered by the NBCE. (History: 37-12-201, MCA; IMP, 37-12-305, MCA; NEW, 1998 MAR p. 1494, Eff. 6/12/98; TRANS, from Commerce, 2003 MAR p. 2761.)

24.126.511 DISPLAY OF LICENSE (1) The form of license is to be made and approved by the board and signed by the applicant pursuant to 37-1-104, MCA.

(2) All persons engaged in the practice of chiropractic must display their license in a conspicuous place for members of the public to view.

(3) Licenses must not be defaced, altered or duplicated for display requirements.

(4) Licensees shall immediately notify the board of lost, damaged or destroyed licenses and obtain a duplicate license by submitting a written request to the board. (History: 37-1-104,

37-12-201, MCA; IMP 37-1-104, 37-12-201, MCA; NEW, 2004 MAR p. 729, Eff. 4/9/04.)

Sub-Chapter 6 reserved

Sub-Chapter 7

Licensing And Board Specific Rules

24.126.701 INACTIVE STATUS (1) A licensed chiropractor who wishes to retain a license but who will not be practicing chiropractic may obtain an inactive status license upon submission of an application. An individual licensed on inactive status may not practice chiropractic during the period in which he or she remains on inactive status.

(2) An individual licensed on inactive status may convert his or her license to active status by submission of an appropriate application, payment of the renewal fee for the year in question and evidence of one of the following:

(a) during each year of inactive status in this state, full-time (no less than 1,500 hours per year) practice of chiropractic under a license in good standing in another state that requires completion of continuing education substantially equivalent to that required under these rules; or

(b) proof of completion of 12 hours of approved continuing education in the year preceding reinstatement. (History: 37-1-134, 37-12-201, 37-12-307, MCA; IMP, 37-1-134, 37-12-201, 37-12-307, MCA; NEW, 1987 MAR p. 1343, Eff. 8/14/87; AMD, 1996 MAR p. 2844, Eff. 10/25/96; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.702 and 24.126.703 reserved

24.126.704 INTERNS AND PRECEPTORS (1) No student intern will be allowed to practice under the direction and supervision of a licensed chiropractor (the "preceptor") in the state of Montana unless the student has provided a letter from the chiropractic college the student is attending, listing the student's date of matriculation and expected graduation.

(2) A student intern must complete an application form provided by the board and furnish current transcripts from the chiropractic college attended.

(3) Student interns may not sign insurance claims, workers' compensation claims, medicare claims, birth or death certificates or other documents that require the signature of a licensed chiropractor.

(4) The student intern shall follow the laws and rules of the board, the same as if he or she were licensed as a chiropractor.

(5) All pre-graduate and post-graduate interns doing preceptorships in the state are required to take the jurisprudence exam and pass the exam with a minimum score of 75%.

(6) All preceptors must state that the pre-graduate or post-graduate intern is an "intern" on any type of

advertisement. This designation must appear with the name of the licensed preceptor supervising the intern.

(7) The sponsoring preceptor and the student intern must submit a signed conditions statement, along with the application.

(8) The preceptor must be in good standing with the board.

(9) The preceptor must provide malpractice insurance, if coverage over and above that which is provided by the chiropractic college is required.

(10) The preceptor must have a minimum of five years of practice in the state of Montana.

(11) The preceptor must be present within the practice environment at all times when an intern is seeing patients.

(12) The preceptor must comply with the guidelines on involving an intern in the care of patients of the field doctor as required by the chiropractic college.

(13) All applications for intern/preceptor programs must be approved by the board prior to starting the program. (History: 37-12-304, MCA; IMP, 37-12-304, MCA; NEW, 1994 MAR p. 2713, Eff. 10/14/94; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761.)

Sub-Chapter 8 reserved

Sub-Chapter 9

Impairment Evaluators

24.126.901 APPLICATIONS FOR CERTIFICATION OF IMPAIRMENT EVALUATORS

(1) Any licensed chiropractor desiring to be certified as an evaluator to rate impairments of workers' compensation claimants or insurers shall file an application with the board.

(2) Applicants shall have been in active clinical practice in Montana for a minimum of one year.

(3) Applicants may qualify for the certification examination by:

(a) successfully completing a board-approved program for education and training of certified chiropractic impairment evaluators; or

(b) successfully completing an educational and training program relating to chiropractic orthopedics, impairment ratings or similar course work from a council on chiropractic education (CCE) status chiropractic college or any other college or university approved by the board; or

(c) by being in practice for more than five years and successfully demonstrating to the board that he has completed a certified program equal to that recommended by the board.

(4) Diplomates of the American board of chiropractic orthopedists (DABCO) in practice more than five years are exempt from the educational and training requirements.

(5) Applicants shall take and pass an examination prescribed and approved by the board with a minimum passing grade of 75% on all questions asked.

(6) Applications shall be accompanied by official transcripts, diplomas or similar certificates evidencing successful completion of one of the types of education and training programs approved by the board. Successful completion is deemed written certification by the course provider. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; NEW, 1990 MAR p. 1453, Eff. 7/27/90; AMD, 1996 MAR p. 2844, Eff. 10/25/96; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.902 and 24.126.903 reserved

24.126.904 MINIMUM REQUIREMENTS FOR BOARD-APPROVED PROGRAMS TO QUALIFY FOR CERTIFICATION AS EVALUATORS (1) In order to qualify for board approval, programs shall include a minimum of 36 hours of classroom course work consisting of 24 hours of education in impairment rating from a college certified by the council on chiropractic education, and 12 hours in a course on impairment rating utilizing the current edition of the Journal of American Medical Association (JAMA) Guidelines. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; NEW, 1990 MAR p. 1453, Eff. 7/27/90; AMD, 1996 MAR p. 3212, Eff. 10/25/96; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.905 and 24.126.906 reserved

24.126.907 APPROVAL OF TRAINING PROGRAMS

(1) Applications for approval of training programs shall be made by letter with supporting documents and must demonstrate to the satisfaction of the board that such programs fulfill the requirements of the board.

(2) The supporting documents must include a syllabus or program outline specifying the classroom hours for each segment of the program, a vitae of each instructor and the method to be employed in monitoring attendance.

(3) In evaluating proposed training programs, the board may investigate and make personal inspections, or delegate to one or more of its members or any other duly qualified persons the authority to make such investigations and inspections for the board. Such investigations and inspections will be at the expense of the program sponsors.

(4) When the training program is approved, the board will issue a letter of approval for the training program for a period of two years.

(5) Approval of a program may be withdrawn when the board finds that the program fails to maintain the educational standards set forth in the original application. (History: 37-12-201, MCA; IMP, 37-12-201, MCA; NEW, 1990 MAR p. 1453, Eff. 7/27/90; TRANS, from Commerce, 2003 MAR p. 2761.)

Rules 24.126.908 and 24.126.909 reserved

24.126.910 RECERTIFICATION - DENIAL - REVOCATION

(1) Effective September 2, 2000, a minimum of four hours of specialized continuing education relevant to impairment

evaluation must be demonstrated every four years, or within one year of a new edition to the American medical association's guides to the evaluation of permanent impairment. These hours must be demonstrated in order to qualify for certification renewal. This requirement is in addition to the continuing education hours required for annual renewal of licenses to practice chiropractic in this state.

(2) Persistent deviation from generally accepted standards for impairment evaluation is grounds for denial of renewal of certification and for revocation of the impairment evaluator certificate.

(3) An impairment evaluator must comply with ARM 24.29.1415. These rules can be obtained by contacting the department of labor and industry workers' compensation regulation bureau. (History: 37-1-136, 37-12-201, MCA; IMP, 37-12-201, MCA; NEW, 1990 MAR p. 1453, Eff. 7/27/90; AMD, 2000 MAR p. 1499, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761.)

Sub-Chapters 10 through 20 reserved

Sub-Chapter 21

Renewals And Continuing Education

24.126.2101 RENEWALS - CONTINUING EDUCATION REQUIREMENTS

(1) The board shall send a renewal application form to the licensee's address on file in the board office prior to the renewal deadline. Failure of the licensee to receive a renewal application form in no way releases the licensee from the obligation to renew his or her license in a timely manner.

(2) All licensees shall sign an affidavit provided on the renewal application which states that they have, in the year preceding the application for renewal, attended at least 12 hours of board-approved continuing education. An annual random audit of active licensees will be conducted to verify compliance.

(3) For the period beginning September 1, 1997 through September 1, 2000, inclusive, the board is requiring each licensee to demonstrate successful completion of a professional boundary continuing education course. The course shall be a minimum of four hours in length and will be in addition to the 12-hour annual requirement. Each licensee will be required to complete the course once during that time period.

(4) Licensees may renew their licenses for a period of one year after the expiration date of the license by paying a late fee and by submitting documentation of the appropriate continuing education requirements. A license that is not renewed within one year of the most recent renewal date automatically terminates. The terminated license may not be reinstated, and a new original license must be obtained by passing the special purposes examination for chiropractic (SPEC) administered by the national board of chiropractic examiners and paying the appropriate fees.

(5) The board shall approve on a case-by-case basis all continuing education programs that it determines in its discretion to be related to the practice of chiropractic.

(6) Clock hours of continuing education cannot be accumulated and carried over from one renewal year to the next renewal year.

(7) It shall be necessary for those attending the Montana chiropractic association meetings to register with the secretary of the association each day of attendance.

(8) All licensees shall notify the department of any change in mailing addresses. (History: 37-1-134, 37-1-141, 37-1-319, 37-12-201, 37-12-307, MCA; IMP, 37-1-134, 37-1-306, 37-1-319, 37-12-307, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 442, Eff. 5/11/79; AMD, 1979 MAR p. 1302, Eff. 10/16/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 6, Eff. 1/15/82; AMD, 1983 MAR p. 1247, Eff. 9/16/83; AMD, 1984 MAR p. 499, Eff. 3/30/84; AMD, 1986 MAR p. 1182, Eff. 7/18/86; AMD, 1987 MAR p. 1343, Eff. 8/14/87; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1990 MAR p. 1144, Eff. 6/15/90; AMD, 1994 MAR p. 1578, Eff. 6/10/94; AMD, 1996 MAR p. 3212, Eff. 10/25/96; AMD, 1998 MAR p. 1494, Eff. 6/12/98; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761.)

Sub-Chapter 22 reserved

Sub-Chapter 23

Unprofessional Conduct

24.126.2301 UNPROFESSIONAL CONDUCT (1) For the purpose of implementing the provisions of 37-1-316, MCA, the board further defines unprofessional conduct as follows:

(a) using or causing to be used advertising matter which contains:

(i) misstatements, falsehoods, misrepresentations or distorted and fabulous statements relative to cures or treatments;

(ii) statements which may in any way reflect against a fellow licensee including statements which imply superiority over another licensee or health care professional; or

(iii) personal advertising claiming particular abilities, features or accomplishments regarding the licensee or areas of specialty practice unless documentation of such abilities, features, accomplishments or specialties are documented with the board prior to placing the advertisement;

(b) engaging in or soliciting sexual relations with a patient, sexual misconduct either verbal or physical, sexual contact, sexual exploitation or a sex offense, as defined in 45-2-101, MCA, when such act or solicitation is related to the practice of chiropractic;

(c) violating any state or federal statute or administrative rule regulating the practice of chiropractic including any statute or rule defining or establishing standards of patient care or professional conduct of practice;

(d) engaging in, or being involved in, "fee splitting" in which a licensee gives or receives payments or fees in referral of a patient to any professional;

(e) soliciting or accepting, for services rendered, assigned payments from any third-party payer as payment in full, if the effect is to eliminate the need of payment by the patient of any required deductible or co-payment applicable on the patient's health benefit plan, except as hereinafter provided;

(f) collecting fees or charges for services or treatment different from the fee or charge the licensee submits to a third-party payer for that service or treatment, except as hereinafter provided. This subsection is intended to prohibit offering the above listed practices to the public as well as the actual practices, except that, in instances where the intent is not to collect an excessive remuneration from the third-party payer, but rather to provide services at a reduced rate to a patient unable to afford the deductible or co-payment, the services may be performed for a lesser charge or fee. The burden of proof for establishing that this is the case shall be on the licensee;

(g) engaging in, or providing services or treatments which are in excess of those warranted by either the patients' condition and response or the practice technique, methodology or modality applied and are not consistent with the seriousness of diagnosis;

(h) participating in, or conducting, research projects on patients or the public without first obtaining written authorization from the board;

(i) failing to make reports and records available to the board upon request, failure to cooperate with a board investigation or knowingly giving false information to the board;

(j) performing an examination, chiropractic manipulation, or adjustment intra-vaginally;

(k) performing an adjustment intra-rectally unless the following conditions are met:

(i) a written consent form is signed by the patient for each adjustment. The consent form must clearly offer external adjustment options;

(ii) the intra-rectal adjustment must be diagnosis related;

(iii) the adjustment is performed with the use of a disposable finger cot or rubber glove; and

(iv) a chaperone is present at all times the patient is examined and treated intra-rectally;

(l) falsifying, altering or making incorrect essential entries or failing to make essential entries of patient records;

(m) violating any state, federal, provincial or tribal statute or administrative rules governing or affecting the professional conduct of any licensee;

(n) providing professional services while impaired by dangerous drugs or controlled substances;

(o) failing to obtain an appropriate consultation or make an appropriate referral when the problem of the patient is

beyond the licensee's training, experience or competence;

(p) failing to render adequate supervision, management, training or control of auxiliary staff or other persons, including preceptors, temporary permit holders and/or licensees practicing under the licensee's supervision or control according to generally accepted standards of practice;

(q) failing to cooperate with a board inspection or investigation in any material respect; or

(r) failing to keep adequate patient records that are legible and contain at a minimum:

(i) date of service;

(ii) pertinent history;

(iii) relevant symptomatology;

(iv) physical findings;

(v) results of diagnostic tests;

(vi) clinical assessment;

(vii) treatment procedures; and

(viii) patient progress. (History: 37-1-131, 37-1-319, 37-12-201, MCA; IMP, 37-1-131, 37-1-316, 37-12-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 475, Eff. 3/11/88; AMD, 1990 MAR p. 995, Eff. 6/1/90; AMD, 1994 MAR p. 1578, Eff. 6/10/94; AMD, 1998 MAR p. 1494, Eff. 6/12/98; AMD, 2000 MAR p. 1307, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2761; AMD, 2004 MAR p. 729, Eff. 4/9/04.)